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S E C R E T SECTION 01 OF 03 ZAGREB 000470

SIPDIS

C O R R E C T E D COPY (ADDING PRISTINA)

STATE FOR EUR, EUR/SCE, S/WCI
THE HAGUE FOR JOHNSON/KAYE/WHEATON

E.O. 12958: DECL: 1.6X6: 5 YEARS AFTER CLOSURE OF ICTY
SECRET

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TAGS: [KAWC](#) [PGOV](#) [PREL](#) [PGOV](#) [PREL](#) [HR](#) [HRKAWC](#) [ICTY](#)
SUBJECT: OTP BOMBAST ON GOTOVINA / CROATIAN NON-COOPERATION
ON DOCUMENT SHARING

REF: ZAGREB 305

CLASSIFIED BY: POLOFF ROBERT SILBERSTEIN, REASON 1.6 (X6)

SUMMARY

1. (S) THOMAS OSORIO (STRICTLY PROTECT), HEAD OF ICTY'S ZAGREB OFFICE, TOLD US MARCH 4 THAT RECENT STATEMENTS BY OTP SPOKESPERSON HARTMANN AND OTP POLITICAL ADVISOR JORIS LAMBASTING THE GOC FOR ITS FAILURE TO CAPTURE ICTY INDICTEE ANTE GOTOVINA WERE "UNPROFESSIONAL." OSORIO TOLD US THAT HE HAS SEEN NO CREDIBLE EVIDENCE TO SUPPORT RECENT OTP CLAIMS THAT GOTOVINA IS "MOVING FREELY" IN CROATIA. ACCORDING TO OSORIO, THE OTP WAS PREPARED CITE THE GOC FOR NON-COMPLIANCE ON TECHNICAL GROUNDS IF CROATIA DID NOT SERVE THE ICTY INDICTMENT TO GENERAL BOBETKO, EVEN THOUGH THE ICTY JUDGE WAS SET TO RULE THAT THE GENERAL'S HEALTH PRECLUDED A TRIAL. WHILE THE OTP'S FRUSTRATION IS UNDERSTANDABLE, MISMANAGEMENT OF THE GOTOVINA CASE AND PILING ON OVER BOBETKO UNDERCUTS THE ICTY'S CREDIBILITY WITH ITS ALLIES AND STRENGTHENS THE HAND OF REJECTIONISTS JUST AS THE TRIBUNAL ENTERS A PERIOD OF INCREASING TENSION WITH THE GOC OVER NON-COMPLIANCE WITH DOCUMENT REQUESTS RELATED TO CROATIA'S INVOLVEMENT IN BOSNIA DURING THE WAR.
END SUMMARY.

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ANOTHER INTEMPERATE BLAST FROM THE OTP

2. (C) IN SEPARATE MEDIA INTERVIEWS ON FEBRUARY 27 AND 28, OTP SPOKESPERSON FLORENCE HARTMANN AND OTP POLITICAL ADVISOR JEAN-JAQUES JORIS ISSUED STATEMENTS SAYING THAT ICTY INDICTEE ANTE GOTOVINA WAS "MOVING FREELY IN CROATIA," AND THAT THE GOC FAILED TO USE THE NUMEROUS OPPORTUNITIES IT HAD TO CATCH THE FUGITIVE. JORIS WENT ON TO ADD THAT THE OTP HAD PROVIDED "EVIDENCE" TO THE GOC ON GOTOVINA, BUT YET THE GOC FAILED TO ACT. BOTH HARTMANN AND JORIS ALSO OPENLY CRITICIZED CROATIAN COOPERATION ON DOCUMENT SHARING, HIGHLIGHTING SPECIFICALLY ITS FAILURE TO DELIVER BOSNIA-RELATED DOCUMENTS DESPITE NUMEROUS ICTY REQUESTS.

3. (C) ON MARCH 3, WE MET WITH CROATIAN POLICE DIRECTOR RANKO OSTOJIC TO DISCUSS THE GOTOVINA CASE. OSTOJIC REPEATED HIS MANTRA THAT THE POLICE FAITHFULLY FOLLOW UP ON EVERY LEAD, BUT ACTIONABLE EVIDENCE HAS NEVER BEEN PROVIDED (OR DEVELOPED BY THE CROATIANS). A SPECIAL POLICE UNIT HAS GOTOVINA'S FAMILY AND CLOSE ASSOCIATES UNDER SURVEILLANCE. OSTOJIC, HOWEVER, CATEGORICALLY REFUTED JORIS' CHARGE ON GOTOVINA. NEITHER HE, NOR AMBASSADOR KRNIC, THE HEAD OF THE GOC OFFICE FOR COOPERATION WITH ICTY, WHO RECENTLY VISITED THE HAGUE ON CONSULTATIONS, HAD RECEIVED ANY INFORMATION FROM THE OTP ON GOTOVINA'S WHEREABOUTS.

4. (SBU) PUBLICLY, THE GOC HAS DENIED THAT THERE IS ANY BREAK IN CROATIA'S COOPERATION WITH THE ICTY. PRIME MINISTER RACAN COMMENTED THAT, "FOR VARIOUS REASONS," PEOPLE ARE ATTEMPTING
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"TO FABRICATE" A CONFLICT BETWEEN ICTY AND THE GOC.

OTP NOT PROFESSIONAL

5. (S) IN LIGHT OF THE WAR OF WORDS BETWEEN THE OTP AND THE GOC, THE APPARENT DISCONNECT BETWEEN THE OTP AND THE GOC OVER INFORMATION SHARING AND OUR CONCERNS -- EXPRESSED REFTTEL -- THAT THE OTP DOES NOT HAVE A COHERENT STRATEGY FOR DEALING WITH CROATIA, WE MET MARCH 4 WITH ICTY ZAGREB OFFICE HEAD THOMAS OSORIO (STRICTLY PROTECT THROUGHOUT). WHILE CALLING THE OTP'S HANDLING OF THE GOTOVINA CASE AMATEURISH, OSORIO CONFIRMED THAT THE OTP'S COMPLAINTS ABOUT GOC DOCUMENT SHARING ARE VALID AND ARE REACHING CRISIS LEVELS.

16. (S) ON GOTOVINA, THE OTP IS ITS OWN WORST ENEMY, OSORIO SAID. AS FAR AS HE KNOWS, THERE IS NO NEW CREDIBLE INFORMATION AVAILABLE DEMONSTRATING GOTOVINA'S PRESENCE IN CROATIA. THERE WERE REPORTED SIGHTINGS OF GOTOVINA IN ZAGREB AROUND CHRISTMAS. HOWEVER, THE OTI INVESTIGATORS, WHO DEVELOPED THE LEAD FROM INTERVIEWS WITH OTHER CROATIAN WAR CRIMES SUSPECTS, ONLY PROVIDED THE INFORMATION TO THE CROATIAN POLICE WELL AFTER THE FACT. BY THAT TIME, THE LEAD -- IF INDEED IT EVER WAS CREDIBLE -- HAD GONE STALE. THIS ERROR WAS PART OF A CONTINUING TREND AMONG OTP OFFICIALS WHO

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ACTION SWCI-00

INFO	LOG-00	COR-01	NP-00	AF-00	AID-00	AMAD-00	CIAE-00
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	EAP-00	EUR-00	FBIE-00	VC-00	IPS-01	TEDE-00	INR-00
	IO-00	LAB-01	L-00	VCE-00	AC-01	NSAE-00	NSCE-00
	OIC-02	OMB-01	PA-00	PM-00	PRS-00	ACE-00	P-00
	SCT-00	SP-00	SSO-00	TRSE-00	USIE-00	PMB-00	DSCC-00
	PRM-00	DRL-01	G-00	NFAT-00	SAS-00	/008W	
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O 041825Z MAR 03
FM AMEMBASSY ZAGREB
TO SECSTATE WASHDC IMMEDIATE 9595
INFO AMEMBASSY LONDON IMMEDIATE
AMEMBASSY MOSCOW IMMEDIATE
AMEMBASSY SARAJEVO IMMEDIATE
AMEMBASSY THE HAGUE IMMEDIATE
USMISSION USUN NEW YORK IMMEDIATE
USMISSION USNATO IMMEDIATE
USOFFICE PRISTINA IMMEDIATE

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REFUSE TO VERIFY INFORMATION WITH THE LOCAL ZAGREB OFFICE WHICH HAS BEEN COORDINATING THE GOTOVINA INVESTIGATION WITH THE CROATIAN POLICE FROM THE OUTSET. INSTEAD, OTI INVESTIGATORS PASS ON THOSE ERRONEOUS, STALE OR CIRCULAR LEADS TO JORIS, HARTMANN AND DEL PONTE AS FACT. OSORIO SAID THAT HE URGENTLY CONTACTED OTP ADVISOR ANTON NIKIFOROV TO INTERCEDE WITH HARTMANN AND JORIS TO CORRECT THE RECORD. HE ALSO ASKED THAT NIKIFOROV ENSURE THAT ANY FUTURE STATEMENTS ON GOTOVINA ARE SUPPORTED BY INCONTROVERTIBLE FACT.

DOCUMENT SHARING: REAL GOC "NON-COMPLIANCE"?

17. (S) OSORIO SAYS THAT THE OTP VIEW OF CROATIAN COOPERATION ON DOCUMENT SHARING HAS CHANGED DRAMATICALLY FOR THE WORSE SINCE LAST OCTOBER, WHEN DEL PONTE TOLD THE UNSC THAT SHE WAS SATISFIED WITH CROATIAN COOPERATION. OVER THE PAST FEW MONTHS, THE OTP HAS CONDUCTED A COMPREHENSIVE INFORMATION AUDIT AND HAS DETERMINED THAT THE GOC IS SUBSTANTIALLY LAGGING IN RESPONDING TO DOCUMENT REQUESTS ON A WIDE RANGE OF ISSUES. AS REPORTED REFTEL, THE MAJOR GOC FAILING CONTINUES TO BE THE PROVISION OF DOCUMENTS ON CROATIAN INVOLVEMENT IN THE WAR IN BOSNIA.

18. (S) WE ASKED OSORIO TO ADDRESS THE CROATIAN ARGUMENT, NOW BANDIED IN THE LOCAL MEDIA, THAT OTP DOCUMENT REQUESTS ARE TOO BROAD. OSORIO SAID THAT SUCH CHARGES ARE FALSE.

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INVESTIGATORS ARE PUTTING TOGETHER THE FINAL PIECES OF THEIR CASES AND KNOW EXACTLY WHAT THEY ARE LOOKING FOR, HE SAID. IN THE CASE OF THE BOSNIA, REQUESTS ARE VERY DETAILED, EVEN TO THE POINT WHERE INVESTIGATORS ARE SEEKING SPECIFIC TRANSCRIPTS OF CONVERSATIONS OF PRESIDENT TUDJMAN AND THEN-DEFENSE MINISTER GOJKO SUSAK FROM 1993. THESE TRANSCRIPTS REPORTEDLY SHOW TUDJMAN DECIDING WHICH OFFICIALS SHOULD BE APPOINTED TO THE CROATIAN PARA-GOVERNMENT OF HERCEG-BOSNA AND ORDERING SPECIFIC UNITS OF THE CROATIAN MILITARY (HV) TO ENTER AND FIGHT IN BOSNIA. ACCORDING TO OSORIO, IN ONE CASE, THE TRIBUNAL HAS A COPY OF SUCH A

TRANSCRIPT AND MERELY ARE SEEKING A CERTIFIED COPY FOR EVIDENTIARY PURPOSES. OSORIO SAID THAT THE GOC ALSO HAS FAILED TO PROVIDE BANK RECORDS RELATED TO THE TRANSFER OF FUNDING THROUGH PRIVREDNA BANKA TO SUPPORT HV AND HVO OPERATIONS IN BOSNIA.

19. (S) ON JANUARY 30, DEL PONTE WROTE A LETTER TO DEPUTY PREMIER GORAN GRANIC, IN WHICH, ACCORDING TO OSORIO, THE ICTY CHIEF PROSECUTOR READ THE GOC "THE RIOT ACT." THE LETTER STATES THAT THE OTP IS "CONCERNED AND DISAPPOINTED" THAT DOCUMENTS "ARE BEING WITHHELD" AND THAT CROATIA IS "NOT IN COMPLIANCE" WITH ITS UNSC AND DAYTON OBLIGATIONS ON THE PROVISION OF BIH DOCUMENTATION. THE JANUARY 30 LETTER STATES THAT IF THE GOC DOES NOT HAND OVER THE DOCUMENTS IN QUESTION BY APRIL 4, THE OTP WILL REQUEST THAT A JUDGE SUBPOENA THEM. THE OTP ALSO WILL ASK THE JUDGE TO ISSUE A SEARCH WARRANT, ARMED WITH WHICH ICTY OFFICIALS WOULD APPROACH PRIVREDNA BANKA TO OPEN ITS ARCHIVES. ADDITIONALLY, THE OTP WILL PETITION THE JUDGE TO SUBPOENA THE GOC -- EITHER GRANIC OR KRNIC -- TO EXPLAIN TO THE TRIBUNAL CROATIAN NON-COMPLIANCE.
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THE ACT OF SUBPOENAING WOULD TRIGGER A REPORT OF NON-COMPLIANCE TO THE UNSC, OSORIO ADDED.

110. (S) GRANIC REPLIED TO DEL PONTE IN MID-FEBRUARY, AFFIRMING THAT THE GOC WOULD MAKE ITS "BEST EFFORT" TO FIND THE DOCUMENTS IN QUESTION, BUT SOME DOCUMENTS "DID NOT EXIST." OTHER DOCUMENTS WOULD NOT BE "EASY TO FIND" BECAUSE THE INFORMATION THAT THE OTP PROVIDED WAS NOT SPECIFIC ENOUGH. WITH REGARD TO THE BANK DOCUMENTS, GRANIC SAID THAT GOC EFFORTS TO PROVIDE THE DOCUMENTS WERE COMPLICATED BY CROATIAN BANK SECRECY LAWS.

111. (S) WHILE OSORIO COULD NOT CONFIRM WHY THE GOC WAS WITHHOLDING THE DOCUMENTS -- IT IS COMMON KNOWLEDGE THAT HV UNITS FOUGHT IN BOSNIA DURING THE WAR -- OSORIO AGREED WITH US THAT ONE POSSIBLE MOTIVE COULD BE GOC FEAR THAT THE DOCUMENTS WOULD CONFIRM DIRECT CROATIAN INTERVENTION IN BOSNIA FROM THE OUTSET OF THE WAR AS WELL AS THE INTENTION OF PRESIDENT TUDJMAN TO CARVE OUT OF BOSNIA AN ETHNICALLY PURE INDEPENDENT CROATIAN ENTITY. OSORIO BELIEVED THESE FACTS WOULD PROVIDE SUFFICIENT BASIS FOR THE GOBIAH TO FILE A STRONG SUIT AGAINST CROATIA FOR WAR REPARATIONS BEFORE THE INTERNATIONAL COURT OF JUSTICE.

BOBETKO CASE STILL SIMMERING

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ACTION SWCI-00

INFO	LOG-00	COR-01	NP-00	AF-00	AID-00	AMAD-00	CIAE-00
	INL-00	USNW-00	DODE-00	DOEE-00	PERC-00	SRPP-00	DS-00
	EAP-00	EUR-00	FBIE-00	VC-00	IPS-01	TEDE-00	INR-00
	IO-00	LAB-01	L-00	VCE-00	AC-01	NSAE-00	NSCE-00
	OIC-02	OMB-01	PA-00	PM-00	PRS-00	ACE-00	P-00
	SCT-00	SP-00	SSO-00	TRSE-00	USIE-00	PMB-00	DSCC-00
	PRM-00	DRL-01	G-00	NFAT-00	SAS-00	/008W	
					-----3FB45A	052224Z	/38

O 041825Z MAR 03
FM AMEMBASSY ZAGREB
TO SECSTATE WASHDC IMMEDIATE 9596
INFO AMEMBASSY LONDON IMMEDIATE
AMEMBASSY MOSCOW IMMEDIATE
AMEMBASSY SARAJEVO IMMEDIATE
AMEMBASSY THE HAGUE IMMEDIATE
USMISSION USUN NEW YORK IMMEDIATE
USMISSION USNATO IMMEDIATE
USOFFICE PRISTINA IMMEDIATE

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112. (S) OSORIO DESCRIBED DEL PONTE AS BEING FRUSTRATED WITH BOTH THE ICTY PRESIDING JUDGE AND THE GOC ON THE BOBETKO

CASE. DEL PONTE IS "PISSSED OFF" WITH THE PRESIDING JUDGE BECAUSE HE HAS NOT RULED ON THE MEDICAL EXPERT TEAM'S REPORT ON GENERAL BOBETKO AND ON THE GENERAL'S FITNESS TO STAND TRIAL. THE OTP'S EXPECTATION STILL IS THAT THE JUDGE WILL RULE THAT BOBETKO IS UNFIT.

113. (S) AT THE SAME TIME, DEL PONTE IS FURIOUS AT THE CROATIAN COURTS FOR NOT ORDERING THAT THE BOBETKO INDICTMENT BE DELIVERED TO THE ACCUSED OR TO HIS LAWYERS, AS IS SPECIFIED UNDER CROATIAN LAW. POINTING TO A FEBRUARY 13 LOCAL PRESS REPORT IN WHICH BOBETKO RECEIVED LOCAL HDZ OFFICIALS IN THE HOSPITAL, OSORIO SAID THAT IF BOBETKO IS FIT ENOUGH TO RECEIVE LOCAL GUESTS, HE IS FIT ENOUGH TO RECEIVE THE INDICTMENT. THE OTP IS PREPARING A REQUEST TO THE GOC THAT IT -- AS THE OTP'S LOCAL AGENT -- FILE A MOTION BEFORE THE PRESIDING ZAGREB JUDGE TO REQUEST HIM TO SERVE THE INDICTMENT TO BOBETKO OR HIS LEGAL REPRESENTATIVES. FAILURE OF THE GOC TO ACT ON THE OTP'S BEHALF WOULD BE ANOTHER REASON TO CITE CROATIA FOR NON-COMPLIANCE, OSORIO SAID. WHILE HE ACKNOWLEDGED THAT SOME COULD PERCEIVE THIS APPROACH AS "SOUR GRAPES," HE SAID IT WAS AN IMPORTANT POINT OF PRINCIPAL THAT STATES COMPLY FULLY WITH ALL THEIR OBLIGATIONS. THIS IS ONE SUCH CASE.

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COMMENT

114. (C) THE OTP'S PREDILECTION TO ISSUE UNSUBSTANTIATED STATEMENTS ON GOTOVINA'S WHEREABOUTS AND ITS LACK OF CONSULTATION WITH ITS OWN EXPERTS ON THE GROUND DAMAGES THE OTP'S CREDIBILITY WITH THE ICTY'S INTERNATIONAL SUPPORTERS, PARTICULARLY WITH US AND THE BRITISH. THE OTP MUST MAKE CLEAR TO US WHAT EVIDENCE IT HAS ON GOTOVINA. MORE BROADLY, IT MUST DO A FAR BETTER JOB IN MANAGING ITS CROATIA PORTFOLIO IF WE ARE TO WEIGH IN EFFECTIVELY ON ICTY'S BEHALF WITH RECALCITRANT GOC OFFICIALS.

115. (C) THE OTP'S MISHANDLING OF THE GOTOVINA CASE THREATENS TO OVERSHADOW WHAT APPEARS TO BE SERIOUS CROATIAN NON-COMPLIANCE OVER DOCUMENT SHARING. THE OTP'S UNPROFESSIONAL BEHAVIOR ON GOTOVINA DIMINISHES THE INSTITUTION, WEAKENS THE FEW PROFESSIONALS IN CROATIA INTENT ON CAPTURING THE FUGITIVE, AND STRENGTHENS THE HAND OF THE MANY HERE THAT ARGUE THAT ICTY IS ONLY PURSUING A PURELY POLITICAL AGENDA.
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